



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AS123-NBK; FRL-9922-86-Region 9]

Approval and Promulgation of Implementation Plans; American Samoa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is completing the process begun in 2005 to revise the format of the "identification of plan" section for the American Samoa State Implementation Plan (SIP). Specifically, the EPA is adding the nonregulatory provisions and quasi-regulatory measures to the revised "identification of plan" section. The nonregulatory provisions and quasi-regulatory measures affected by this format revision have been previously submitted by the Territory of American Samoa and approved by the EPA.

DATES: This rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Nonregulatory and quasi-regulatory SIP materials are available for inspection at Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, 94105-3901 and online at EPA Region IX's Web site.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, Rules Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 972-3073, gong.kevin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to the EPA.

Table of Contents

- I. Background
- II. Public Comments
- III. Statutory and Executive Order Reviews

I. Background

Under the Clean Air Act (CAA or "Act"), each state is required to have a state implementation plan (SIP) which contains the control measures and strategies which will be used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms. The control measures and strategies must be formally adopted by each state after the public has had an opportunity to comment on them. They are then submitted to EPA as SIP revisions on which EPA must formally act.

The SIP is a living document which can be revised by the state as necessary to address the unique air pollution problems in the state. Therefore, the EPA from time to time must take

action on SIP revisions which may contain new or revised regulations as being part of the SIP. On May 31, 1972 (37 FR 10842), the EPA approved, with certain exceptions, the initial SIPs for 50 states, four territories and the District of Columbia. Since 1972, each state and territory has submitted numerous SIP revisions, either on their own initiative, or because they were required to as a result of various amendments to the CAA. The EPA codifies its approvals and disapprovals of SIPs and SIP revisions in 40 CFR part 52 ("Approval and promulgation of implementation plans").

Within 40 CFR part 52, there are 58 subparts (subparts A through FFF). Subpart A contains general provisions and certain requirements applicable to all states and territories, while subparts B through DDD and FFF contain requirements that are specific to a given state or territory. Subpart EEE contains historical information pertaining to the EPA's actions on SIP material originally submitted by states to the National Air Pollution Control Administration, Department of Health Education and Welfare in 1970.

Until 1997, the first or second section of each subpart within 40 CFR part 52 (other than subparts A and EEE) was called "identification of plan." On May 22, 1997 (62 FR 27968), EPA established a new format for the "identification of plan" sections assigned to each subpart in 40 CFR part 52 (except A

and EEE). With the new format, revised "identification of plan" sections contain five subsections: (a) Purpose and scope, (b) Incorporation by reference, (c) EPA approved regulations, (d) EPA approved source specific permits, and (e) EPA approved nonregulatory provisions and quasi-regulatory measures.

"Nonregulatory provisions and quasi-regulatory measures" refers to such items as transportation control measures, certain statutory provisions, control strategies, and monitoring networks. In our May 1997 rule, we indicated that the EPA would begin to phase-in the new format on a state-by-state basis. Please see our May 1997 rule for more information concerning the revised format for SIPs.

The American Samoa SIP is identified in subpart DDD ("American Samoa") of part 52. As with other State SIPs, the EPA has taken a number of actions since 1972 with respect to the American Samoa SIP. In 2005, we revised the format of the "identification of plan" section in subpart DDD in accordance with the revised format described above. See 70 FR 53564 (September 9, 2005). In our 2005 final rule, we did not complete the process of revising the format for the "identification of plan" section in that we did not list the nonregulatory provisions and quasi-regulatory measures portion of the American Samoa SIP, but we are doing so in today's action.

II. Public Comments

EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) that, upon finding "good cause," authorizes agencies to dispense with public participation; and section 553(d)(3), which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply revises the codification of provisions that are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by clearly identifying the current nonregulatory provisions and quasi-regulatory measures of the American Samoa SIP.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). Because the agency has made a "good cause"

finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** (II. Public Comments") section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 or 204 of UMRA.

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045

"Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not an economically significant regulatory action based on health or safety risks.

This rule does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's action simply reformats the codification of provisions that are already in effect as a matter of law in Federal and approved State

programs. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

The EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the American Samoa SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, the EPA sees no need to reopen the 60-day period for filing such petitions for judicial review for this reformatting of portions of the "Identification of plan" section of 40 CFR 52.2820 for American Samoa.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Reporting and recordkeeping requirements.

Dated: January 23, 2015.

Jared Blumenfeld,
Regional Administrator,
Region IX.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart DDD - American Samoa

2. Section 52.2820 is amended by adding paragraph (e) to read as follows:

§52.2820 Identification of plan.

* * * * *

(e) EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures.

EPA Approved American Samoa Nonregulatory Provisions and Quasi-Regulatory Measures

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Territory of American Samoa Air Pollution Control Implementation Plan				
Section 1. Introduction:				
Introduction	State-wide	01/27/72	05/31/72, 37 FR 10842	Included as part of the original SIP. See 40 CFR 52.2823(b) .
Letter from Donald F. Graf, Executive Secretary, American Samoa Environmental Quality Commission, to Frank Covington, Director, Air and Water Programs Division, EPA Region IX, dated March 23, 1972.	State-wide	03/23/72	05/31/72, 37 FR 10842	Letter indicating formal adoption of the implementation plan. See 40 CFR 52.2823(c)(2) .
Letter from Donald F. Graf, Executive Secretary, American Samoa Environmental Quality Commission, to Paul DeFalco, Regional Administrator, EPA Region IX, dated April 28, 1972.	State-wide	04/28/72	03/02/76, 41 FR 8956	Letter regarding EPA comments on the plan. See 40 CFR 52.2823(c)(3) .

Section 2. Legal Authority:				
Legal Authority	State-wide	01/27/72	05/31/72, 37 FR 10842	
Appendix A. American Samoa Environmental Quality Act, excluding section 35.0113	State-wide	03/9/72	05/31/72, 37 FR 10842	Public Law 12-45. Chapter 35.01 of the Code of American Samoa. See 40 CFR 52.2823(c)(1). Section 35.0113 ("Variances") was deleted without replacement at 62 FR 34641 (June 27, 1997)]. See 40 CFR 52.2823(b)(1).
Section 3. Air Quality Data	State-wide	01/27/72	05/31/72, 37 FR 10842	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 4. Emission Inventory	State-wide	01/27/72	05/31/72, 37 FR 10842	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 5. Control Strategy:				
Control Strategy	State-wide	01/27/72	05/31/72, 37 FR 10842	Included as part of the original SIP. See 40 CFR 52.2823(b).
Letter from Peter T. Coleman, Governor, American Samoa, to Kathleen M. Bennett,	State-wide	11/12/82	08/14/85, 50 FR 32697	Negative declaration indicating no Lead sources in American Samoa. See 40 CFR

EPA, dated November 12, 1982.				52.2823(c)(5)(i).
Section 6. Compliance Schedule	State-wide	01/27/72	05/31/72, 37 FR 10842	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 7. Air Quality Surveillance Network	State-wide	01/27/72	05/31/72, 37 FR 10842	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 8. Review of New Sources and Modifications	State-wide	01/27/72	05/31/72, 37 FR 10842	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 9. Source Surveillance	State-wide	01/27/72	05/31/72, 37 FR 10842	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 10. Resources	State-wide	01/27/72	05/31/72, 37 FR 10842	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 11. Intergovernmental Cooperation	State-wide	01/27/72	05/31/72, 37 FR 10842	Included as part of the original SIP. See 40 CFR 52.2823(b).